

REMARKS

Claims 1-20 have been canceled without prejudice and replaced by new claims 21-37 to clarify the definition of the invention.

Reconsideration and withdrawal of the rejection of the claims on Thompson alone or in view of Ellman '503, or on Garito '686 in view of Ellman '503 are respectfully requested in view of the following remarks.

New independent claim 21 is directed to the feature generally expressed on Page 3, ls. 16-22 and more succinctly on Page 9, ls. 11-15. Traditionally, in an electrosurgical instrument for operating both a monopolar and a bipolar handpiece, CUT waveforms were supplied to the monopolar handpiece and HEMO waveforms supplied to the bipolar handpiece. Thompson in Fig. 1 shows a typical arrangement with the bipolar handpiece represented by forceps, conventionally used for hemostasis.

The present applicants discovered that procedures exist whereby both CUT and HEMO waveforms can be profitably applied by BOTH a monopolar and a bipolar handpiece. To the applicants' knowledge, no one before had ever suggested that concept to the skilled practitioners in the art, and no electrosurgical instrument existed that could supply both CUT and HEMO waveform modulated RF currents to both monopolar and bipolar handpieces connected to the same instrument. Moreover, as explained in the specification at Page 9, ls. 16-18, the known systems do not allow a substantially constant power output irrespective of the selection of an operating sub-mode. Hence, special circuitry is required, as a separate feature of the invention, to achieve this objective.

It is submitted that neither of the above features are shown or suggested in any of the cited art.

In Thompson, nowhere is it disclosed that both CUT and HEMO waveform-modulated RF carrier currents are supplied both to the bipolar receptacle and the monopolar receptacle, as set forth in new claim 21. In fact, the Thompson patent teaches otherwise, namely, that bipolar electrosurgical output power is delivered to the bipolar receptacle, and monopolar electrosurgical output power is delivered to the monopolar receptacle. See col. 7, lines 44-46. The clear teaching in Thompson, consistent with the existing understandings, is that monopolar waveforms

are different from bipolar waveforms and each travels to a different output connector.

In Ellman '503, no teaching is present as to the different waveforms used for the different handpieces. In Garito '686, that different electrosurgical currents are used for the monopolar and bipolar handpieces is emphasized by the fact that even different carriers are used.

Thus, in none of the above cited references is there a teaching of an instrument capable of supplying the SAME sub-mode modulated RF carriers at the same carrier frequency to both the connector for the monopolar handpiece and the separate connector for the bipolar handpiece.

This aspect of the invention can also be viewed as achieving two new purposes, i.e., one purpose is to create an electrosurgical unit with only Bipolar functionality for all the modes, and the second purpose is to additionally provide in the same electrosurgical unit the functionality of the same Monopolar modes. No such teaching can be found in the cited art.

Nor is there a teaching in the art that circuitry is provided to maintain substantially the same power output irrespective of the sub-mode modulated RF carrier chosen by the surgeon. This feature is set forth for example in claims 28 and 32 et seq.

Nor is there a teaching that circuitry is provided to vary the power output in response to the selection of an operating sub-mode as set forth in claims 29 and 32 et seq.

Nor is there a teaching that means are provided, as recited in claims 29, 30, 31, and 32-34 of employing independent means in response to selecting a sub-mode for controlling the output power, as shown in the embodiment illustrated in Fig. 3 of independent voltage dividers for the various modes and sub-modes.

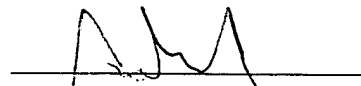
For the foregoing reasons, it is submitted that apparatus claims 21-34 are clearly patentable over the cited art and should be allowed.

Method claims 35-37 recite one or more of the principal features set forth above and are considered likewise allowable for the same reasons.

Favorable action on the merits is earnestly solicited.

Respectfully submitted

J. Garito et al.



J. Oisher, his attorney

Reg. No. 17317

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